IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7356 OF 2005

Shri Mohammed Iqbal Haji Ahmed : Petitioner
(Orig. Defendant)

V/s.

Kamruddin Masjid Trust (Jametul Kubra)
& Ors. : Respondents
(Orig.Plaintiffs)

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Mr.V.S.Rajure for the petitioner.

None present for the respondents.

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CORAM : S.A. BOBDE, J.

October 25, 2005.

P.C.

1. By the present petition, the petitioner who is the defendant, has challenged the order dated 30.7.2005 allowing amendment to the plaint. According to the learned counsel for the petitioner, during the course of cross-examinantion of the respondents-plaintiffs' witness in the suit for eviction filed by them, the petitioner-defendant elicited an answer which was contrary to the case pleaded by the respondents. As a result of that answer, the respondents have filed an application for

amendment to the plaint.

2. The controversy is as follows:-

The respondents filed a suit against the petitioner for eviction allegedly on the ground that the premises are required for the residence of Peshimam. In the course of cross-examination of the plaintiffs' witness, the petitioner elicited an answer from the witness that Peshimam is staying in the premises of the trust at another place. As a result of this answer, the respondent-trust has moved the amendment to the effect that the said Peshimam is no more working as a Peshimam and, therefore, sought an amendment to the plaint to that effect. Prima facie, it does appear that the amendment is sought because of the answer given by the witness. It is equally plausible that the trust needs to clarify that Peshimam who is said to be occupying the quarter allotted to him is not vacating that quarter and they still have the bona fide requirement of the premises.

3. Having regard to the fact that the petitioner has been allowed to amend his written statement to carry out a consequential amendment to the plaint, there is no reason to interfere. The petition is hereby dismissed.

Sd/-

S.A. BOBDE, J.